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Follow-up to the advisory opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*

Note by the Secretary-General

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Information received from Governments

Democratic People's Republic of Korea

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Based on its principled stand for the complete elimination of nuclear weapons, the Democratic People's Republic of Korea has for years voted in favour of the resolution on this question. Contrary to the resolution, however, no multilateral negotiations leading to the early conclusion of a nuclear-weapons convention have been commenced, owing to the continuous pursuance of the theory of "nuclear deterrence" of the cold war era and the one-sided insistence on nuclear non-proliferation on the part of some nuclear-weapon States, including the United States of America. In order to prevent nuclear proliferation effectively, it is necessary to eliminate the root cause: all nuclear weapons. The Democratic People's Republic of Korea supports multilateral negotiations leading to the conclusion of legally binding international convention providing for the complete elimination of nuclear weapons, which pose a constant threat to the survival of mankind.

India

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[3 September 1999]

1. India has consistently supported the early conclusion of a nuclear-weapons convention prohibiting the development, transfer, threat or use of nuclear weapons and providing for their elimination. India underlines the unanimous conclusion of the International Court of Justice that there exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control.

2. At the United Nations Diplomatic Conference of Plenipotentiaries convened in Rome in 1998 to negotiate the establishment of the International Criminal Court, India argued that its Statute, being drafted 50 years after the invention and first use of nuclear weapons, should explicitly ban their use as a crime. India submitted an amendment to include the use of nuclear weapons in the list of crimes over which the Court would have jurisdiction. Regrettably, that amendment was blocked through procedural measures, promoted and supported by the established nuclear-weapon States and those enjoying the protection of a nuclear umbrella. India pointed out to the Conference that the message this sent was that, at the level of plenipotentiaries, the international community had decided that the use of nuclear weapons, the most inherently indiscriminate of weapons, was not a crime; the appropriate conclusions should flow from this, though India would continue its campaign to have the international community outlaw nuclear weapons.

3. India has supported the commencement of negotiations in the Conference on Disarmament on a phased programme for the complete elimination of nuclear weapons within a specified time-frame. India was one of the sponsors of the proposal (CD/1570) submitted by the States members of the Conference on Disarmament belonging to the Group of 21, which, *inter alia*, included a proposal for the establishment of an ad hoc committee on nuclear disarmament under agenda item 1, entitled "Cessation of nuclear arms race and nuclear disarmament". The Group of 21 also submitted a draft decision and mandate on the establishment of an ad hoc committee on nuclear disarmament (CD/1571).

4. India has also supported under Conference agenda item 1 the establishment of an ad hoc committee which shall negotiate, on the basis of the report of the special coordinator (CD/1299) and the mandate contained therein, a non-discriminatory multilateral and internationally and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices.

5. Conscious of its responsibilities as a nuclear-weapon State, India has unequivocally and unconditionally stated through a unilateral commitment that it will not be the first to use nuclear weapons and that it remains willing to strengthen this undertaking by entering into bilateral agreements on a no-first-use of nuclear weapons or multilateral negotiations on a global no-first-use of nuclear weapons. India considers that, having stated that it shall not be the first to use nuclear weapons, there remains no basis for their use against countries that do not have nuclear weapons.

6. At the fifth session of the Association of Southeast Asian Nations (ASEAN) Regional Forum in Manila last year, India stated that it fully respects the status of the nuclear-weapon-free zone in South-East Asia and is ready to convert this commitment into a legal obligation. India reiterated that offer at the sixth session of the ASEAN Regional Forum (ARF) in Singapore this year. India will remain responsive to the expressed need for such commitments to other nuclear-weapon-free zones as well.

7. India supports the commencement of negotiations in the Conference on Disarmament to reach agreement on an international convention prohibiting the use or threat of use of nuclear weapons under any circumstances. India has also supported the establishment of an ad hoc committee for agenda item 4 of the Conference, entitled "Effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons", to negotiate with a view to reaching agreement on effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons.

8. At the initiative of the Prime Minister of India, during his visit to Lahore, India and Pakistan concluded the Lahore Declaration and Memorandum of Understanding on 21 February 1999. India and Pakistan agreed, *inter alia*, on the following:

– Both sides shall take immediate steps to reduce the risk of accidental or unauthorized use of nuclear weapons and discuss concepts and doctrines with a view to elaborating measures for confidence-building in the nuclear and conventional fields, aimed at the prevention of conflict;

– The two sides are fully committed to undertaking national measures to reduce the risks of accidental or unauthorized use of nuclear weapons under their respective control. The two sides further undertake to notify each other immediately in the event of any accidental, unauthorized or unexplained incident that could create the risk of fallout with adverse consequences for both sides, or an outbreak of a nuclear war between the two countries, as well as to adopt measures aimed at diminishing the possibility of such actions, or of such incidents being misrepresented by the other. The two sides shall identify/establish the appropriate communication mechanism for this purpose;

– The two sides shall continue to abide by their respective unilateral moratoriums on conducting further nuclear test explosions unless either side, in exercise of its national sovereignty, decides that extraordinary events have jeopardized its supreme national interests.

9. India regrets that three out of the five established nuclear-weapon States, and the countries allied with them, should have adopted, at a summit of their alliance earlier this year, a Strategic Concept that continues to base their security on the possession and use of nuclear weapons. In response, India notes with regret that other nuclear-weapon States have also reaffirmed the continuing centrality of nuclear weapons in their strategic doctrines. In contrast, the draft report of India's National Security Advisory Board on "Indian nuclear doctrine", released in August 1999, begins by stating that the use of nuclear weapons in particular as well as other weapons of mass destruction constitutes the gravest threat to humanity and to peace and stability in the international system.

10. Pending the complete elimination of nuclear weapons, States possessing nuclear weapons have a special responsibility to exercise the utmost restraint. Conscious of its responsibilities, India has in this context exercised restraint at the unilateral, bilateral and regional levels. At the unilateral level, India has had a defensive orientation to security concepts and force postures and low national defence expenditures. Based on a policy of long-standing national consensus, India has implemented stringent national export controls that complement its policy of not transferring nuclear weapons to any other country and of transferring nuclear-related technology only under adequate safeguards. In the nuclear field, India has extended the commitment to no-first-use and no use of nuclear weapons as part of its policy of minimum nuclear deterrence and rejection of an arms race and concepts and postures from the cold war period. India remains prepared to engage in the processes of building confidence and trust at the bilateral level so as to complement such measures at the regional and global levels. India is an active participant in the ASEAN Regional Forum and remains committed to making positive contributions to nuclear non-proliferation and disarmament through other appropriate forums, thus enhancing regional and global security.